

Appl. No. : **09/811,978**
Filed : **March 19, 2001**

REMARKS

In response to the Office Action mailed March 21, 2003, Applicants submit the present amendment, along with a petition to add the claim for domestic priority under 37 C.F.R. § 1.78(a)(6). Applicants respectfully request the Examiner to reconsider the present application in view of the foregoing amendments and comments. With this amendment, Claims 1-10 remain pending in the present application. Applicants acknowledge the Examiner's withdrawal of Claims 11-16. Moreover, Applicants acknowledge with appreciation the Examiner's allowance of Claim 10.

A. Petition Under 37 C.F.R. § 1.78(a)(6) Filed Herewith

Applicant has amended the present application to include a reference to a prior provisional application after the time period set forth in 37 C.F.R. § 1.78(a)(5). In accordance with 37 C.F.R. § 1.78(a)(6), Applicant has filed a petition for acceptance of the unintentionally delayed claim for the benefit of a prior filed provisional application on a separate paper herewith. The petition states that the entire delay between the date the claim was due and the date the claim was filed was unintentional. In addition, the surcharge set forth in 37 C.F.R. § 1.117(t) is enclosed herewith.

B. The Priority Claim To The Prior Provisional Application Is Proper

The claim for domestic priority under 35 U.S.C. § 119(e) has not been granted because the present application was not filed within 12 months of the prior provisional application. Applicants respectfully submit that the present application was timely filed in order to claim priority to the prior provisional.

The provisional application (Application No. 60/190,153) was filed on March 17, 2000. The 12-month deadline, i.e., March 17, 2001, fell on a Saturday. Accordingly, the present application was timely filed on the next business day, i.e., Monday, March 19, 2001. Accordingly, Applicants respectfully request that the claim for priority be granted.

C. Castillo et al. Is Not Prior Art To The Present Application

The Examiner rejected Claims 1-5 and 7-9 under 35 U.S.C. §102(e) as being anticipated by Castillo et al. (6,422,399). The Examiner rejected Claim 6 under 35 U.S.C. §103(a) as being unpatentable over Castillo et al. (6,422,399) in view of Fall et al. (6,209,979). Applicants

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respectfully submit that Castillo et al. is not prior art to the present application and, therefore, the present rejection to the claims should be withdrawn.

Castillo et al. was filed on November 21, 2000. The present application claims priority to U.S. Provisional Application No. 60/190,153, which was filed on March 17, 2000. Thus, Castillo et al. is not prior art to the present application under 35 U.S.C. § 102(e). Accordingly, Applicants respectfully request reconsideration and withdrawal of the present rejection.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present specification. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicants' attorney, Edward A. Schlatter at (949) 721-2821 (direct line), to resolve such issues promptly.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: July 31, 2003

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